

PATENT APPLICATION
DOCKET NO. L7059-0001

REMARKS/ARGUMENTS

Favorable reconsideration of the above-identified patent application, in light of the above amendments and the following remarks is respectfully requested. The presently pending claims are claims 13 and 14. Claims 1-12 have been canceled. Claims 13 and 14 have been added.

In response to a telephonic interview with the Examiner, claims 1-12 have been canceled. The Applicant has added claims 13 and 14 to claim the novel aspects of the Applicant's invention (postage stamp incorporated with a sterilization indicator) while avoiding problems with rejections under MPEP 706.03(a).

Upon review of MPEP 706.03(a), there are three cases cited: *In re Miller*, 418 F.2d 1392, 164 USPQ 46 (CCPA 1969); *Ex parte Gwinn*, 112 USPQ 439 (Bd. App. 1955); and *In re Jones*, 373 F.2d 1007, 153 USPQ 77 (CCPA 1967). As discussed in the telephonic interview, the Applicant is attaching excerpts from a treatise entitled "Patent Prosecution- Practice and Procedure Before the U.S. Patent Office" by Irah H. Donner.

In re Miller held that patentability of an invention may be based on printed matter when there is a functional relationship between the printed matter and a substrate, such as a cup. In the Applicant's invention, there is a functional relationship between the stamp and the mail article. The stamp provides the dual purpose of providing an indicator of completion of the sterilization process as well as an indicator that postage has been paid for delivery of the mail article. The Applicant's invention uniquely provides a sterilization indicator incorporated with the postage stamp, thereby removing the necessity to add additional tags, labels or indicating devices to the envelop. This reduces costs associated with adding additional indicators to the mail article. In addition, surface

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area for placement of indicators may be limited on the mailing article, such as an envelope. Rather than adding two indicators on the limited surface area, one for the stamp and one for the sterilization indicator, the present invention incorporates both in one stamp.

In re Miller was also cited in *In re Levin*, Civ. App. 96-1180 (Fed. Circ. Feb. 3, 1997) (unpublished). In *Levin*, the Federal Circuit held that color-coded expiration indicia provided a sufficient functional relationship with the substrate or bottle and/or what was contained in the substrate or bottle. Claim 14 is drafted in a similar fashion as the claim discussed in *Levin*.

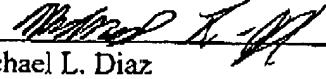
It should be noted that the MPEP 706.03(a) discusses that "a mere arrangement of printed matter" is rejected as not being within the statutory classes. However, the Applicant's invention is not a mere arrangement of printed matter. Printed matter is but one component of the elements of the Applicant's invention. MPEP 706.03(a) is directed at inventions which merely provide printed matter. The Applicant's invention, on the other hand, includes several functional elements. Thus, the use of printed material in combination with other elements is patentable.

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CONCLUSION

For all the above reasons, the Applicant respectfully requests the reconsideration and the allowance of claims 13 and 14.

Respectfully submitted,



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Dated: 1-26-04

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